Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

SEP 25 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Jurisdictional Separations Reform and Referral to the Federal-State Joint Board	)	**CC Docket No. 80-286**
	)	
	)	

WORLDCOM COMMENTS

WorldCom, Inc. (WorldCom) hereby submits its comments on the Recommended Decision issued by the Federal-State Joint Board on Separations (Joint Board) on July 21, 2000.[1]

If the Commission adopts the Joint Board's recommendation for a freeze of jurisdictional allocation factors, all factors should be frozen based on data from the twelve months prior to the Commission's issuance of an order. The Commission should not adopt the Joint Board's recommendation that, if the Commission determines that ISP-bound traffic is jurisdictionally interstate, the frozen DEM factor be "rolled back" to adjust for recent growth in ISP-bound traffic.

No. of Copies rec'd 0+5
List A B C D E

I. The Commission Should Not Adopt the Proposed "DEM Rollback"

In the Recommended Decision, the Joint Board recommends that, if the Commission determines that Internet traffic is jurisdictionally interstate in the reciprocal

[1]Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, Recommended Decision, CC Docket No. 80-286, released July 21, 2000.

compensation remand proceeding, the Commission recalculate the DEM factor and freeze it at "some substantial portion of the current year level . . . ."[2] According to the Joint Board, the "precise percentage of the current year's local DEM should be established according to how much of a reduction in local DEM is warranted in light of any effects that Internet usage has had on jurisdictional allocations or consumers."[3]

As WorldCom has demonstrated, the Commission need not, and should not, employ conventional end-to-end jurisdictional analysis in the reciprocal compensation remand proceeding.[4] Furthermore, even if the Commission finds it necessary to employ such analysis, and finds in the reciprocal compensation remand proceeding that a substantial portion of the dial-up traffic terminating at ISP POPs in the same local calling area is jurisdictionally interstate, such a finding would provide no basis for the Commission to adjust the local DEM factor prior to instituting the proposed freeze. Only last year, in the Reciprocal Compensation Declaratory Ruling, the Commission determined that the Commission's longstanding policy that ISP-bound traffic should be treated as intrastate for separations purposes is fully consistent with a conclusion that such traffic is jurisdictionally mixed.[5] The Commission found that the proper

---

[2]Recommended Decision at ¶ 29.

[3]Id.

[4]WorldCom Comments, July 21, 2000, CC Docket Nos. 96-98 and 99-68.

[5]Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98 and 99-68, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68, released February 26, 1999, at ¶ 36.

separations treatment of ISP-bound traffic is not determined by the jurisdictional classification of that traffic, but is instead determined by the fact that ISPs obtain their connections pursuant to local business line tariffs.[6] As long as ISPs are permitted to obtain their connections pursuant to local tariffs, a cost-revenue mismatch can be avoided only if both the costs and revenues associated with these connections are accounted for as intrastate.[7]

The Joint Board does not explain why it believes that the ILECs' current DEM factor should be adjusted if the Commission finds that ISP-bound traffic is jurisdictionally interstate. Reading between the lines, however, the Joint Board appears to be concerned that the growth in ISP-bound traffic, which has caused ILECs to allocate more costs to the intrastate jurisdiction than would have been the case had there been no ISP-bound local traffic, may be having some impact on consumers.[8]

While it is true that the ILECs' DEM factors would be different if there had been no increase in ISP-bound local traffic, this is far from sufficient to justify the proposed

---

[6]Id. ("With respect to current arrangements, we note that this order does not alter the long-standing determination that ESPs (including ISPs) can procure their connections to LEC end offices under intrastate end user tariffs, and thus for those LECs subject to jurisdictional separations both the costs and the revenues associated with such connections will continue to be accounted for as intrastate.") See also, letter from Lawrence E. Strickling, Chief, Common Carrier Bureau, to Dale Robertson, SBC, May 18, 1999.

[7]Id.

[8]Recommended Decision at ¶ 28 ("The Joint Board recommends that the Commission further develop the record on this issue, and in particular, determine what, if any, impact the growth in local minutes has had on jurisdictional allocations and consumers.")

DEM rollback. All separations factors are constantly changing in response to growth or declines in different types of traffic. It would be entirely arbitrary for the Commission to isolate and "correct" only one of these many changes, while accepting all other separations factors at their current level.

There is no evidence that the ILECs' current DEM factors have had any impact on consumers. As an initial matter, it is clear that there has not been a significant shift of costs to the intrastate jurisdiction in recent years, much less a significant shift that is traceable to the growth in ISP-bound traffic. Table 12.1 of the March, 2000 Trends in Telephone Service report, which the Joint Board cites as evidence that local DEM has been increasing, shows that there has been virtually no change in the relative level of intrastate and interstate DEM – the only thing that matters for separations purposes.[9] Local DEM accounted for 75 percent of total DEM in 1988; in 1998, the most recent year for which data is available, local DEM still accounted for 75 percent of the total.[10]

Even more significant than the stability in the ILECs' DEM factor is the stability in the ILECs' overall jurisdictional allocations. As is shown by Attachment A to these comments, which details the interstate/intrastate split for the RBOCs' total plant in service (TPIS) from 1995 to 1999, the proportion of TPIS allocated to the intrastate

---

[9]Whatever tendency the growth in ISP-bound traffic may have had to allocate more costs to the intrastate jurisdiction, this has been offset by other changes in traffic patterns that have tended to allocate more costs to the interstate jurisdiction. Furthermore, even rapid growth in ISP-bound traffic would have had minimal impact on the overall DEM factor, given that this growth was occurring from a relatively small base.

[10]Trends in Telephone Service, Industry Analysis Division, Common Carrier Bureau, FCC, March 2000, Table 12.1.

jurisdiction has remained virtually unchanged since 1995 (and, if anything, has actually declined). In 1995, the RBOCs allocated 74.0 percent of TPIS to the intrastate jurisdiction; in 1999, the corresponding figure was 72.7 percent. Thus, to the extent that ISP-bound traffic has caused more costs to be allocated to the intrastate jurisdiction, this effect has been more than offset by other traffic pattern changes that have shifted costs to the interstate jurisdiction.

Moreover, even if there had been a significant shift of costs to the intrastate jurisdiction that could be traced primarily to the growth in ISP-bound traffic, this would not, by itself, justify the proposed DEM rollback. Any tendency of ISP-bound traffic to shift costs to the intrastate jurisdiction would be appropriate, given that the revenues associated with such traffic are recorded as intrastate. If ISP-bound traffic had grown fast enough to cause a significant cost shift, then the revenues associated with that traffic would have grown rapidly as well -- offsetting the impact of the cost shift and ensuring that the cost shift did not generate pressure for increases in local rates. The Commission has consistently expressed doubt that ISPs create uncompensated costs for the ILECs,[11] and WorldCom is not aware of any local rate increase that can be traced to the growth of ISP-bound traffic.

Clearly, then, the proposed DEM rollback would not provide any benefit to consumers. In fact, the proposed DEM rollback would almost certainly harm consumers. By reallocating costs to the interstate jurisdiction, the DEM rollback

[11] Access Charge Reform, First Report and Order, CC Docket No. 96-262, released May 16, 1997, at ¶346.

recommended by the Joint Board would increase rate of return carriers' interstate access charges and could also increase price cap carriers' interstate access charges (if the cost shift were sufficient to trigger the low-end adjustment mechanism). Under the new rules adopted in the CALLS Order, any low-end adjustment would translate directly into higher residential and business end user charges.[12]

II. The Commission Should Require the ILECs to Report their Separations Practices to the Joint Board

The Joint Board proposes that, during the five-year life of the proposed separations freeze, the Commission continue its comprehensive review of the separations process.[13] According to the Joint Board, the issues that should be examined during the comprehensive review include the appropriate separations treatment of (1) unbundled network element (UNEs), (2) digital subscriber line (DSL) services, (3) private lines, and (4) Internet traffic. The Joint Board also suggests that a comprehensive review may have to examine the separations treatment of packet switching.[14]

The Joint Board suggests that the primary problem posed by UNEs and new technologies is that "the current Part 36 rules do not appropriately address newer technologies such as packet switching," leaving carriers "to their own discretion as to the

---

[12] 47 C.F.R. §61.45(d)(3).

[13] Recommended Decision at ¶ 27.

[14] Id. at ¶ 15 n.47.

method of allocating facility costs among Part 36 categories."[15] As a result, the Joint Board believes "that there may be inconsistencies among carriers as to how such new equipment is treated for separations purposes."[16]

The proposed freeze would not fully address the problem of inconsistent separations treatment of UNEs and new technologies. First, the Recommended Decision recommends that the Commission not freeze rate of return carriers' category relationships. Given that these carriers will continue to have discretion as to how they allocate new technology costs among Part 36 categories, it is likely that the inconsistency noted by the Joint Board will continue. Second, any inconsistencies in the price cap carriers' current separations treatment of new technologies would be "frozen" into separations results for the next five years.

Continued inconsistency in separations practices would not only distort separations results but could also distort the operation of the high-cost loop formula. The results computed using the high-cost loop formula depend on whether investment is allocated to Exchange Line C&WF Category 1.3 and Exchange Line CO Category 4.13; NARUC and others have suggested that it is not clear whether investment associated with certain new technologies should be assigned to these categories.[17] Furthermore,

---

[15] Id.

[16] Id.

[17] While the Recommended Decision suggests that DSL-equipped loops should be assigned to CW&F Category 1.3 (¶ 22), NARUC has suggested that these loops should be assigned to CW&F Category 1.2. See Request for Clarification and/or Reconsideration of the National Association of Regulatory Utility Commissioners, CC Docket No. 98-79, November 30, 1998.

because the high-cost formula depends on relative loop costs, it is necessary that all incumbent LECs classify costs consistently.

Rather than deferring all action on the classification issues noted by the Joint Board to a later "comprehensive reform" proceeding, the Commission should, at a minimum, require that local exchange carriers report to the Joint Board how they are currently treating UNEs and the new technologies enumerated in the Recommended Decision for separations purposes. These reports would allow the Joint Board to determine the extent to which the incumbent LECs' separations results reflect inconsistent treatment of UNEs and new technologies, ensure that rate of return carriers are at least classifying UNEs and new technologies consistently from year to year, and, by giving the Joint Board a clear picture of the separations treatment underlying current separations results, provide a starting point for the comprehensive reform effort.

III. Conclusion

For the reasons stated herein, the Commission should not adopt the Recommended Decision's proposed "DEM rollback."

Respectfully submitted,
WORLDCOM, INC.

Alan Buzacott
1801 Pennsylvania Ave., NW
Washington, DC 20006
(202) 887-3204

September 25, 2000

Attachment: Jurisdictional Allocation of RBOC TPIS

	Year	Total	State	Interstate	% State
Bell Atlantic - North	1995	31,381,046	22,677,961	8,703,082	72.3%
	1996	32,232,053	23,229,725	9,002,329	72.1%
	1997	32,926,865	23,731,787	9,195,078	72.1%
	1998	34,176,023	23,990,924	10,185,100	70.2%
	1999	36,275,264	25,104,724	11,170,540	69.2%
Bell Atlantic - South	1995	31,161,727	22,186,160	8,975,566	70.4%
	1996	32,191,803	22,666,635	9,525,166	70.4%
	1997	33,717,288	23,978,750	9,738,538	71.1%
	1998	35,555,380	25,067,654	10,487,727	70.5%
	1999	37,998,623	26,590,765	11,407,859	70.0%
BellSouth	1995	41,662,162	31,428,375	10,233,788	75.4%
	1996	43,716,559	32,671,451	11,045,110	74.7%
	1997	45,507,767	33,907,880	11,599,890	74.5%
	1998	47,476,653	35,391,534	12,085,117	74.5%
	1999	49,701,392	36,974,788	12,726,600	74.4%
Ameritech	1995	27,015,147	20,502,547	6,512,600	75.9%
	1996	27,965,400	21,171,639	6,793,761	75.7%
	1997	29,136,275	22,004,319	7,131,956	75.5%
	1998	30,369,949	22,916,475	7,453,475	75.5%
	1999	31,546,551	23,850,438	7,696,112	75.6%
SWBT	1995	27,010,148	19,914,497	7,095,651	73.7%
	1996	28,134,076	20,525,195	7,608,881	73.0%
	1997	29,319,873	21,256,982	8,062,888	72.5%
	1998	31,025,495	22,343,698	8,681,792	72.0%
	1999	32,496,309	23,245,405	9,250,904	71.5%
Pacific/Nevada	1995	25,312,720	19,724,071	5,588,651	77.9%
	1996	26,200,247	20,463,527	5,736,719	78.1%
	1997	27,138,639	21,098,771	6,039,867	77.7%
	1998	28,142,543	21,774,124	6,368,423	77.4%
	1999	29,137,267	22,538,617	6,598,650	77.4%
U S West	1995	28,800,636	20,647,900	8,152,740	71.7%
	1996	30,157,433	21,654,705	8,502,722	71.8%
	1997	31,199,830	22,401,741	8,798,090	71.8%
	1998	31,936,188	22,942,377	8,993,815	71.8%
	1999	33,512,349	23,957,172	9,555,181	71.5%
TOTAL RBOC	1995	212,343,586	157,081,511	55,262,078	74.0%
	1996	220,597,571	162,382,877	58,214,688	73.6%
	1997	228,946,537	168,380,230	60,566,307	73.5%
	1998	238,682,231	174,426,786	64,255,449	73.1%
	1999	250,667,755	182,261,909	68,405,846	72.7%

Source: ARMIS Report 43-01, Table I, row 1690, columns (f), (g), (h)

<u>STATEMENT OF VERIFICATION</u>

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on September 25, 2000.

Al Buzacott

Alan Buzacott
Senior Manager, Regulatory Affairs
1801 Pennsylvania Ave. NW
Washington, D.C. 20006
(202) 887-3204

CERTIFICATE OF SERVICE

I, Vivian I. Lee, do hereby certify that copies of the foregoing Comments were sent via first class mail, postage paid, to the following on this 25th Day of September, 2000.

International Transcription Services*
1231 20th Street, N.W.,
Washington, DC 20036

Sheryl Todd (3 copies)*
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 5-B540
Washington, DC 20554

The Honorable William E. Kennard, Chairman
Federal Joint Board of Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Michael K. Powell*
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

William Cox*
Federal Joint Board Staff Chairman
Federal Communications Commission
Common Carrier Bureau
Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Sharon Webber*
Deputy Division Chief
Federal Communications Commission
Common Carrier Bureau
Accounting Policy Division
445 12th Sreet, S.W.
Washington, DC 20554

Stephen Burnett*
Federal Communications Commission
Common Carrier Bureau
Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Andrew Firth*
Federal Communications Commission
Common Carrier Bureau
Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Genaro Fullano*
Federal Communications Commission
Common Carrier Bureau
Accounting Policy Division
445 12th Street, SW
Washington, DC 20554

Rober Loube*
Federal Communications Commission
Common Carrier Bureau
Accounting Policy Division
445 12th Street, S.W.
Washington, DC 20554

Richard Robinson*
Federal Communications Commissions
Common Carrier Bureau Accounting
Safeguards Division
445 12th Street, S.W., Room 6-C160
Washington, DC 20552

Gary Seigle*
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

The Honorable Joseph P. Mettner
Commissioner
Wisconsin Public Service Commission
P.O. Box 7854
Madison, WI 55707-7854

The Honorable Diane Munns, Commissioner
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069

The Honorable Joan H. Smith, Commissioner
Oregon Public Utility Commission
550 Capitol Street, N.E., Suite 215
Salem, OR 97310-2551

The Honorable Thomas L. Welch
Chairman, State Joint Board Chairman
Maine Public Utilities Commission
State House Station #18, 242 State Street
Augusta, ME 04333

Peter Bluhm
Vermont Public Service Board
Drawer 20
112 State Street, 4th Floor
Montpelier, VT 05620-2701

Ingo Henningsen
Utah Public Service Commission
160 East 300 South, Box 146751
Salt Lake City, UT 84114-6751

Sandy Ibaugh
Indiana Utility Regulatry Commission
302 w. Washington, Suite E-306
Indianapolis, IN 46204

Lori Kenyon
Regulatory Commission of Alaska
1016 West 6th Avenue, Suite 400
Anchorage, AK 99501-1963

David Lynch
State Joint Board Staff Chairman
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069

J. Bradford Ramsay
National Assn. Of Regulatory Utility
Commissioners
P.O. Box 684
Washington, DC 20044-0683

Jeffrey J. Richter
Wisconsin Public Service Commission
610 North Whitney Way
Maidson, WI 53705-2729

Joel B. Shifman
Maine Public Utilities Commission
State House Station #18
242 State Street
Augusta, ME 04333

Fred Sistarenik
New York State Dept. Of Public Service
Communications Division
3 Empire State Plaze
Albany, NY 12223

Cynthia Van Landuyt
Oregon Public Utility Commission
550 Capitol Street, N.E., Suite 215
Salem, OR 97310-2551

**HAND DELIVERED

Vivian I. Lee

Vivian I. Lee